

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2011-050271

07/02/2012

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT
C. Vigil
Deputy

IN RE THE MARRIAGE OF
PAUL ROBERT WRIGHT

RONEE F STEINER

AND

JENNIFER WRIGHT

CRAIGHTON T BOATES

MINUTE ENTRY

A Motion to Dismiss Petition to Enforce Decree of Dissolution was filed on behalf of Petitioner Paul Robert Wright and opposed by Respondent Jennifer Wright. As explained below, the Court has decided not to grant the Motion.

Respondent filed a Motion to Set Aside Decree in this matter. Later, Respondent filed a Petition to Enforce that decree. There can be no reasonable dispute that, as a procedural matter, should the Court deny the Motion to Set Aside, Respondent ought to be able to pursue a request to enforce. Therefore, the Court will treat the Petition to Enforce as a claim for relief that is made in the alternative. See Ariz. R. Fam. L. P. 29(A); see also *E.H. Boly & Son, Inc. v. Schneider*, 525 F.2d 20, 23 n.3 (9th Cir. 1975) (stating that a plaintiff may assert claims for inconsistent remedies (citing the federal counterpart to Ariz. R. Civ. P. 8(a)(3), which is substantively identical to Family Rule 29(A))).

Therefore, the Motion to Dismiss must be denied. That said, however, the Court will defer ruling on the Petition to Enforce until after the Motion to Set Aside is decided. The suggestion in Respondent's Response to Motion to Dismiss Petition to Enforce (at 3) that because Petitioner would not be left without a remedy the Petition to Enforce can be granted,

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even though the Motion to Set Aside may also be granted at a later date, is not supported by any applicable legal authority, notwithstanding the requirements of Ariz. R. Fam. L. P. 35(A)(1).

IT IS ORDERED:

1. The Motion to Dismiss Petition to Enforce Decree of Dissolution is denied, including the request for attorney's fees.

2. Respondent's Motion to Set Aside Decree is deemed amended to include an alternative claim for relief as reflected in Respondent's Petition to Enforce, and, will be taken up only if the Motion to Set Aside is first denied.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.